

Form G-3 (20240417)

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION DIVISION**

In re: Sabrina Shafer)	Chapter 13
)	
)	No. 24-07714
)	
Debtor(s))	Judge Deborah L. Thorne

NOTICE OF MOTION

TO: See attached list

PLEASE TAKE NOTICE that on June 5, 2024, at 9:15 a.m., I will appear before the Honorable Deborah L. Thorne, or any judge sitting in that judge's place, **either** in courtroom 682 of the Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, IL 60604 **or** electronically as described below, and present the motion of the Debtor [to/for] Relief from Automatic Stay for Purposes of Appellate Litigation, a copy of which is attached.

Important: Only parties and their counsel may appear for presentment of the motion electronically using Zoom for Government. All others must appear in person.

To appear by Zoom using the internet, go to this link: <https://www.zoomgov.com/>. Then enter the meeting ID and passcode.

To appear by Zoom using a telephone, call Zoom for Government at 1-669-254-5252 or 1-646-828-7666. Then enter the meeting ID and passcode.

Meeting ID and passcode. The meeting ID for this hearing is 160 9362 1728, and the passcode is not required. The meeting ID and passcode can also be found on the judge's page on the court's web site.

If you object to this motion and want it called on the presentment date above, you must file a Notice of Objection no later than two (2) business days before that date. If a Notice of Objection is timely filed, the motion will be called on the presentment date. If no Notice of Objection is timely filed, the court may grant the motion in advance without calling it.

By: /s/ Justin Storer

CERTIFICATE OF SERVICE

I, Justin Storer,

☒ an attorney, certify

- or -

☐ a non-attorney, declare under penalty of perjury under the laws of the United States of America

that I served a copy of this notice and the attached motion on each entity shown on the attached list at the address shown and by the method shown on May 29, 2024, at 6:00 p.m. *

/s/ Justin Storer

[Signature]

*All applicable boxes must be checked and all blanks filled in.

SERVICE LIST

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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:

Sabrina Shafer,

Debtor.

Chapter 13

Bankruptcy No. 24-07714

Honorable Deborah L. Thorne

**MOTION FOR RELIEF FROM AUTOMATIC STAY
FOR PURPOSES OF APPELLATE LITIGATION**

Now comes the Debtor, Sabrina Shafer, by and through her counsel, seeking the entry of the attached order granting relief from the automatic stay to enable the continuation of certain appellate litigation at the United States Court of Appeals for the Ninth Circuit.

Efficient resolution of this chapter 13 proceeding, and ascertainment of the value of at least one significant potential claim against the estate, is best attained by entry of an order allowing the appellate litigation to continue in its current forum.

In support of the relief requested, the Debtor states as follows:

JURISDICTION

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, and Local Rule 40.3.1(a) of the United States District Court for the Northern District of Illinois.

2. Venue of the above-captioned case and of this motion is proper in this judicial district pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding within the meaning of 28 U.S.C. §§ 157(b)(1) and (b)(2)(G).

BACKGROUND

3. On May 23, 2024, the Debtor commenced the instant case by filing a petition for relief under chapter 13 of the United States Bankruptcy Code (11 U.S.C. §§ 101, *et. seq.*, the “**Bankruptcy Code**”).

4. The filing of the chapter 13 case occasioned an automatic stay, applicable to all entities, of various species of collection activity, including “the commencement or continuation... of a judicial, administrative, or other action or proceeding against the debtor[...].” 11 U.S.C. § 362(a)(1).

5. Prior to the commencement of the bankruptcy case, the Debtor had been enmeshed in litigation with a former employer. The cases of moment, for purposes of this Motion, are *Skyline Advanced Technology Services v. Shafer*, case 3:2018-cv-06641 in the United States District Court for the Northern District of California, and two appeals arising therefrom, both styled *Skyline Advanced Technology Services v. Shafer*, cases 0:2024-cv-01377 and 0:2024-cv-03240 at the United States Court of Appeals for the Ninth Circuit.

6. The first appellate case seeks review of an order entered by the District Court directing the Debtor to disgorge \$745,061.53 in income to Skyline, her former employer (see dkt. 146 in the District Court case). The second seeks

review of the District Court's denial of a discretionary grant of prejudgment interest to Skyline (see dkt. 167 in the District Court case).

7. The disposition of the two appeals would likely provide binding guidance with reference to the value of such claim as Skyline may have in this bankruptcy case. Both the \$745,061.53 judgment against the Debtor, and the District Court's denial of prejudgment interest, are premised on application of California state law.

REQUESTED RELIEF

8. The Debtor respectfully requests this Court enter an order pursuant to 11 U.S.C. § 362(d) modifying the automatic stay for the limited purposes of enabling the parties to brief and argue in the appellate litigation, and to permit the Ninth Circuit Court of Appeals to dispose of the appeals as it deems appropriate, and providing for waiver of the 14-day stay provided by Fed. R. Bankr. P. 4001(a)(3).

9. In the interests of clarity, the Debtor's proposed order specifically excludes, from stay relief, any party's collection efforts against any property of the Debtor's bankruptcy estate.

BASIS FOR REQUESTED RELIEF

10. Section 362(d) of the Bankruptcy Code establishes that the court "shall grant relief from the stay provided under subsection (a) of this section...for cause..."

11. The respective appeals are most-efficiently dispatched in their current forum. Proceeding in the federal courts in California, applying California law, would permit the greatest likelihood an efficient and expeditious resolution to the

longstanding matters above, as well as preventing duplicative litigation in this Court relating to the value of claims and similar matters.

12. A copy of this Court's required form accompanying all requests for relief from the automatic stay is attached hereto as **Exhibit A**.

NOTICE

13. No less than 7 days' notice of this Motion has been given to: (i) the standing chapter 13 trustee, and (ii) the Office of the United States Trustee, by CM/ECF notice, and (iii) the Debtor, (iv) Skyline and (v) its litigation counsel, by mail.

14. The Debtor submits that notice of this Motion is sufficient.

WHEREFORE, Sabrina Shafer prays this Court enter an order finding notice of this motion sufficient, and granting relief from the automatic stay for purposes of the appellate litigation, including briefing, argument, and the issuance of appropriate decisions and orders, and waiving the 14-day stay of Federal Rule of Bankruptcy Procedure 4001(a)(3), but providing that it does not authorize any collection efforts against property of the Debtor's bankruptcy estate, and granting such other and further relief as this Court may deem just and appropriate.

Dated: May 29, 2024

Sabrina Shafer,

By: /s/ Justin R. Storer
One of her Attorneys

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